

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
MCALLEN DIVISION**

UNITED STATES OF AMERICA,

*Plaintiff,*

v.

65.791 ACRES OF LAND, MORE OR  
LESS, SITUATE IN HIDALGO COUNTY,  
STATE OF TEXAS; AND THE ROMAN  
CATHOLIC DIOCESE OF  
BROWNSVILLE, TEXAS, ACTING BY  
AND THROUGH ITS BISHOP, THE  
MOST REVEREND DANIEL E. FLORES,  
AS BISHOP OF THE ROMAN CATHOLIC  
DIOCESE OF BROWNSVILLE, AND FOR  
HIS SUCCESSORS IN OFFICE, ET AL.,

*Defendants.*

CASE NO. 7:18-CV-329

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**COMPLAINT IN CONDEMNATION**

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1. This is a civil action brought by the United States of America at the request of the Secretary of the Department of Homeland Security, through the Acquisition Program Manager, Wall Program Management Office, U.S. Border Patrol Management Office Directorate, U.S. Border Patrol, U.S. Customs and Border Protection, Department of Homeland Security, for the taking of property under the power of eminent domain through a Declaration of Taking, and for the determination and award of just compensation to the owners and parties in interest.

2. The Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1358.

3. The interest in property taken herein is under and in accordance with the authority set forth in Schedule "A."

4. The public purpose for which said interest in property is taken is set forth in

Schedule “B.”

5. The legal description and map or plat of land in which certain interests are being acquired by the filing of this Complaint, pursuant to the Declaration of Taking, are set forth in Schedules “C” and “D.”

6. The interest being acquired in the property described in Schedules “C” and “D” is set forth in Schedule “E.”

7. The amount of just compensation estimated for the property interest being acquired is set forth in Schedule “F.”

8. The names and addresses of known parties having or claiming an interest in said acquired property are set forth in Schedule “G.”

9. Local and state taxing authorities may have or claim an interest in the property by reason of taxes and assessments due and eligible.

WHEREFORE, Plaintiff requests judgment that the interest described in Schedule “E” of the property described in Schedules “C” and “D” be condemned, and that just compensation for the taking of said interest be ascertained and awarded, and for such other relief as may be lawful and proper.

Respectfully submitted,

**RYAN K. PATRICK**  
United States Attorney  
Southern District of Texas

By: *s/John A. Smith, III*  
**JOHN A. SMITH, III**  
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And

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Attorney for Plaintiff

# **SCHEDULE**

# **A**

**SCHEDULE A**

**AUTHORITY FOR THE TAKING**

The property is taken under and in accordance with 40 U.S.C. §§ 3113 and 3114, which authorize the condemnation of land and the filing of a Declaration of Taking; the Act of Congress approved September 30, 1996, as Public Law 104-208, Division C, Section 102, 110 Stat. 3009-546, 3009-554, as amended and codified at 8 U.S.C. § 1103(b) & note; and the Act of Congress approved March 23, 2018, as Public Law 115-141, div. F, tit. II, 132 Stat. 348, which appropriated the funds which shall be used for the taking.

# **SCHEDULE B**

**SCHEDULE B**

**PUBLIC PURPOSE**

The public purpose for which said property is taken is to conduct surveying, testing, and other investigatory work needed to plan the proposed construction of roads, fencing, vehicle barriers, security lighting, cameras, sensors, and related structures designed to help secure the United States/Mexico border within the State of Texas.

# **SCHEDULE C**

**SCHEDULE C**

**LEGAL DESCRIPTION**

Hidalgo County, Texas

Tract: RGV-MCS-2212

Owner: ROMAN CATHOLIC DIOCESE OF BROWNSVILLE, TEXAS, ACTING BY AND THROUGH ITS BISHOP, THE MOST REVEREND DANIEL E. FLORES, AS BISHOP OF THE ROMAN CATHOLIC DIOCESE OF BROWNSVILLE, AND FOR HIS SUCESSORS IN OFFICE, et al.

Acreage: 4.781

As identified in the Warranty Deed, Document #: 1999-814019, recorded on October 12, 1999, in the Deed Records of Hidalgo County:

BEGINNING at a 3-inch steel pipe with nail found in the northwest boundary line of the 300-acre reserve and being the west comer of a 35.81-acre tract as recorded in Volume 1214, Page 1014, Deed Records, said 3-inch steel pipe also being in the southwest line of the International Boundary and Water Commission (IBWC) River Levee as recorded in Volume 488, Page 636, Deed Records;

**Thence**, departing said northwest boundary line with the southwest boundary line of the said 35.81-acre tract and IBWC River Levee, same being the northeast boundary line hereof,

S. 01° 57' 36" W., 109.56 feet

to a 3-inch steel pipe with nail found for an angle point;

**Thence**, containing along said boundary lines,

S. 15° 03' 15" E., 138.90 feet

to a 3-inch steel pipe with nail found for an angle point;

**Thence**, continuing along said boundary lines,

S. 74° 56' 45" W., 40.22 feet

to a 1/2-inch steel rod set for an angle point;

**Thence**, continuing along said boundary lines,

S. 15° 11' 20" E., 183.69 feet

to a ½-inch steel rod set at the northernmost corner of the U.S.A. Tract 332a, as recorded in Volume 2825, Page 116, Deed Records;

**Thence**, departing said southwest boundary line with the northwest boundary line of said Tract 332a,

S. 60° 28' 10" W., 111.88 feet

to a United States Fish and Wildlife Service (USFWS) aluminum monument found for a corner;

**Thence**, continuing along the said northwest boundary line,

N. 29° 31' 50" W., 110.00 feet

to a USFWS aluminum monument found for a corner;

**Thence**, continuing along the said northwest boundary line,

S. 60° 28' 10" W., 85.00 feet

to a USFWS aluminum monument found for a corner;

**Thence**, continuing along the said northwest boundary line,

S. 29° 31' 50" E., 40.00 feet

to a USFWS aluminum monument found for a corner;

**Thence**, continuing along the said northwest boundary line,

S. 60° 28' 10" W., 120.00 feet

to a ½-inch steel rod set for a corner;

**Thence**, continuing along the said northwest boundary line,

N. 29° 31' 50" W., 70.00 feet

to a USFWS aluminum monument found for a corner;

**Thence**, continuing along the said northwest boundary line,

S. 60° 27' 07" W., 272.37 feet

to a 1/2-inch steel rod set at the south corner of the tract herein described;

Thence, departing said northwest boundary line of tract .332a with the southwest boundary line of the tract herein described,

N. 29° 32' 53" W., 255.91 feet

to a 1/2-inch steel rod set in the northwest boundary line of the said 300-acre reserve for the west corner of the tract herein described;

Thence, along the said northwest boundary line,

N. 60° 28' 10" E., 765.72 feet

to the POINT OF BEGINNING and containing 4.781 acres of land, more or less.

# **SCHEDULE D**

SCHEDULE D

MAP or PLAT

Catholic Diocese Of Brownsville

RGV Sector/ Hidalgo County



**LAND TO BE CONDEMNED**

Tract: RGV-MCS-2212

Owner: ROMAN CATHOLIC DIOCESE OF BROWNSVILLE, TEXAS, ACTING BY AND THROUGH ITS BISHOP, THE MOST REVEREND DANIEL E. FLORES, AS BISHOP OF THE ROMAN CATHOLIC DIOCESE OF BROWNSVILLE, AND FOR HIS SUCESSORS IN OFFICE, et al.

Acreage: 4.781

\* The case caption identifies acreage for the entire parent tract; Access to the entire parent tract may be necessary to complete a survey of the proposed tract outlined in red on the map above.

# **SCHEDULE C**

**SCHEDULE C**

**LEGAL DESCRIPTION**

Hidalgo County, Texas

Tract: RGV-MCS-2217

Owner: ROMAN CATHOLIC DIOCESE OF BROWNSVILLE, TEXAS, ACTING BY AND THROUGH ITS BISHOP, THE MOST REVEREND DANIEL E. FLORES, AS BISHOP OF THE ROMAN CATHOLIC DIOCESE OF BROWNSVILLE, AND FOR HIS SUCESSORS IN OFFICE, et al.

Acreage: 61.01

As identified in the Warranty Deed, Document #: 1999-814019, recorded on October 12, 1999, in the Deed Records of Hidalgo County and identified in Warranty Deed, Document #: 2011-2219429, recorded on July 1, 2011, in the Deed Records of Hidalgo County.

BEGINNING at a ½-inch steel rod set in the southwest right-of-way (R.O.W.) line of FM494 for the east corner of this tract and the north corner of a 72.95-acre tract recorded in Volume 1214, Page 1014, Deed Records, Hidalgo County, Texas;

**Thence**, departing said southwest R.O.W. line, with the northwest boundary line of the 72.95 acre tract,

S. 55° 58' 30" W., 823.58 feet

to a ½-inch steel rod set for an angle point;

**Thence**, continuing along said northwest boundary line,

S. 57° 18' 38" W., 897.67 feet

to a ½-inch steel rod set at the west corner of the said 72.95 acre tract and being in the northeast boundary line of U.S.A. Tract (326C) as recorded in Volume 1510, Page 87, Deed Records, same being the southwest line of the International Boundary and Water Commission (IBWC) River Levee as recorded in Volume 488, Page 636, Deed Records;

**Thence**, along the southwest line of the IBWC River Levee, the northeast boundary line of U.S.A. Tract (326C),

N. 30° 31' 34" W., 320.68 feet

to a 1/2-inch steel rod set for an angle point;

**Thence**, continuing along said boundary lines,

N. 29° 38'34" W., 369.00 feet

to a 3-inch steel pipe with nail found for an angle point;

**Thence**, continuing along said boundary lines,

S. 60° 21'26" W., 125.00 feet

To a 1/2-inch steel rod set for an angle point;

**Thence**, continuing along said boundary lines,

N. 30° 23'34" W., 496.50 feet

to a 1/2-inch steel rod set for an angle point;

**Thence**, continuing along said boundary lines,

N. 58° 20'47" E., 124.64 feet

to a 1/2-inch steel rod set for an angle point;

**Thence**, continuing along said boundary lines,

N. 31° 22'46" W., 400.00 feet

to a 1/2-inch steel rod set for an angle point;

**Thence**, continuing along said boundary lines,

N. 22° 34'46" W., 457.20 feet

to a 1/2-inch steel rod set for an angle point;

**Thence**, continuing along said boundary lines,

N. 21° 01'46" W., 733.80 feet

to a 3-inch steel pipe with nail found for an angle point;

**Thence**, continuing along said boundary lines,

N.  $14^{\circ} 16' 57''$  W., 222.67 feet

to a 1/2-inch steel rod set for the west corner of the tract herein described, same being the north corner of U.S.A. Tract (326C), and the south corner of a 35.81-acre tract as recorded in Volume 1214, Page 1014, Deed Records;

**Thence**, along the southeast boundary line of the 35.81 acre tract,

N.  $79^{\circ} 32' 10''$  E., 1,466.24 feet

to a 1/2-inch steel rod set in the southwest R.O.W. line of F.M. 494 for the north corner of the tract herein described, same being the east corner of the said 35.81-acre tract;

**Thence**, along the southwest R.O.W. line of FM 494,

S.  $29^{\circ} 42' 39''$  E., 157.54 feet

to a 1/2-inch steel rod found at the point of curvature of a curve to the left having a central angle of  $18^{\circ} 51' 46''$ , a radius of 372.40, and a tangent of 61.86 feet;

**Thence**, continuing along the southwest R.O.W. line of F.M. 494 and the arc of said curve to the left,

122.60 feet

to a 1/2-inch steel rod set for the point of tangency;

**Thence**, continuing along the southwest R.O.W. line of F.M. 494,

S.  $29^{\circ} 42' 39''$  E., 78.53 feet

to a 1/2-inch steel rod found at the point of curvature of a curve to the left having a central angle of  $04^{\circ} 44' 23''$ , a radius of 5779.58 feet, and a tangent of 239.19 feet;

**Thence**, continuing along the southwest R.O.W. line of F.M. 494 and the arc of said curve to the left,

478.11 feet

to a 1/2-inch steel rod set for the point of tangency;

**Thence**, continuing along the southwest R.O.W. line of F.M. 494,

S. 34° 27' 02" E., 1,563.00 feet

to the POINT OF BEGINNING and containing 100.900 acres of land, more or less.

EXCEPTING

A 39.89-acre tract of land situated in Porcion Number 56 and Porcion Number 57, City of Mission, Hidalgo County, Texas, said 39.89-acre tract being part of that called 100.900-acre tract of land known as Tract I described in Special Warranty Deed to Catholic Diocese of Brownsville as recorded in Document Number 814019 of the Deed Records of Hidalgo County, Texas (D.R.H.C.T.), said 39.89-acre tract being more particularly described as follows:

BEGINNING at a ½-inch iron rod set with yellow plastic cap stamped "HALFF ASSOC." (hereinafter referred to as "with cap") for the North corner of herein described 39.89-acre tract, said point being the intersection of the Southeast line of a tract of land described in Special Warranty Deed to Hunt Valley Industrial I, L.P. as recorded in Document Number 1153789, Deed Records Hidalgo County, Texas, (previously described as a called 35.81-acre tract of land described in Deed to Allan Shivers as recorded in Volume 1214, Page 1014, Deed Records Hidalgo County, Texas, with the common Northeast line of the aforementioned 100.900-acre tract and the Southwest right-of-way line of F.M. 494 (a 100-foot wide right-of-way), from which point a 5/8-inch iron rod found bears N. 29°, 43', 29" W., 5.26 feet;

**Thence**, S. 29°, 43', 29" E, with the common Northeast line of said 100.900-acre tract, the Southwest right-of-way line of said F.M. 494 and the Northeast line of the herein described 39.89-acre tract, a distance of 152.28 feet to the point of curvature of a non-tangent circular curve to the left having a radius of 372.40 feet, whose chord bears S. 20°, 17', 36" E., 122.05 feet, from which point a 5/8-inch iron rod found bears S. 29°, 43', 29" E., 0.21 of a foot;

**Thence**, Southerly, continuing with said common line and with said curve, through a central angle of 18°, 51', 47", an arc distance of 122.60 feet to the point of tangency, from which point a 5/8-inch iron rod found bears S. 52°, 37', 19" E., 0.54 of a foot;

**Thence**, S. 29°, 43', 29" E, continuing with said common line, a distance of 78.53 feet to the point of curvature of a tangent circular curve to the left having a radius of 5,779.58 feet, whose chord bears S. 32°, 05', 41" E., 477.97 feet, from which point a 5/8-inch iron rod found bears S. 75°, 05', 10" W., 0.38 of a foot;

**Thence**, Southeasterly, continuing with said common line and with said curve, through a central angle of  $04^{\circ}, 44', 23''$ , an arc distance of 478.11 feet to the point of tangency, from which point a 5/8-inch iron rod found bears N.  $85^{\circ}, 53', 43''$  E., 0.30 of a foot;

**Thence**, S.  $34^{\circ}, 27', 52''$  E., continuing with said common line, a distance of 448.72 feet to a 1/2-inch iron rod set with cap for the East corner of the herein described 39.89-acre tract, from which point a 5/8-inch iron rod found bears S.  $34^{\circ}, 27', 52''$  E., 721.83 feet;

**Thence**, S.  $55^{\circ}, 45', 53''$  W., departing said common line, over and across said 100.900-acre tract and with the South line of the herein described 39.89-acre tract, a distance of 1,237.70 feet to a 1/2-inch iron rod set with cap for the South corner of the herein described 39.89-acre tract, said point being 400.00 feet Northeast of the common Southwest line of a called 15.58-acre tract of land described in Easement Deed from County to United States of America (Levees) as recorded in Volume 492, Page 445, Deed Records of Hidalgo County, Texas, the Northeast line of called 247.68-acre tract of land known as Tract 26C described in Warranty Deed to The United States of America as recorded in Volume 1510, Page 87, Deed Records of Hidalgo County, Texas, and the Southwest line of said 100.900 acre tract;

**Thence**, N.  $31^{\circ}, 22', 59''$  W., continuing over and across said 100.900-acre tract, 400.00 feet Northeast of and parallel to said common line and with the Westerly line of the herein described 39.89-acre tract, a distance of 449.20 feet to a 1/2-inch iron rod set with cap for a West corner of the herein described 39.89-acre tract;

**Thence**, N.  $22^{\circ}, 34', 59''$  W., continuing over and across said 100.900-acre tract, 400.00 feet Northeast of and parallel to said common line and with the Westerly line of the herein described 39.89-acre tract, a distance of 420.90 feet to a 1/2-inch iron rod set with cap for a West corner of the herein described 39.89-acre tract;

**Thence**, N.  $21^{\circ}, 01', 59''$  W., continuing over and across said 100.900-acre tract, 400.00 feet Northeast of and parallel to said common line and with the westerly line of the herein described 39.89-acre tract, a distance of 705.02 feet to a 1/2-inch iron rod set with cap for a West corner of the herein described 39.89 acre tract;

**Thence**, N.  $14^{\circ}, 13', 59''$  W., continuing over and across said 100.900-acre tract, 400.00 feet Northeast of and parallel to said common line and with the westerly line of the herein described 39.89-acre tract, a distance of 171.25 feet to a 1/2-inch iron rod set with cap for the Northwest corner of the herein described 39.89-acre tract, said point being on the Southeast line of the aforementioned 35.81-acre tract, from which point a 1-inch iron pipe found bears the following two calls: S.  $79^{\circ}, 44', 17''$  W., a

distance of 400.96 feet and N.  $14^{\circ}$ ,  $13'$ ,  $59''$  W., a distance of 88.13 feet;

**Thence**, N.  $79^{\circ}$ ,  $44'$ ,  $17''$  E., with the Southeast line of said 35.81-acre tract, a distance of 1,066.35 feet to the POINT OF BEGINNING.

For a total of 61.01 acres

# **SCHEDULE D**

SCHEDULE D

MAP or PLAT

Catholic Diocese Of Brownsville

RGV Sector/ Hidalgo County



Exhibit A

**LAND TO BE CONDEMNED**

Tract: RGV-MCS-2217

Owner: ROMAN CATHOLIC DIOCESE OF BROWNSVILLE, TEXAS, ACTING BY AND THROUGH ITS BISHOP, THE MOST REVEREND DANIEL E. FLORES, AS BISHOP OF THE ROMAN CATHOLIC DIOCESE OF BROWNSVILLE, AND FOR HIS SUCESSORS IN OFFICE, et al.

Acreage: 61.01

\* The case caption identifies acreage for the entire parent tract; access to the entire parent tract may be necessary to complete a survey of the proposed tract outlined in red on the map above.

# **SCHEDULE E**

**SCHEDULE E**

**ESTATE TAKEN**

Hidalgo County, Texas

Tracts: RGV-MCS-2212 and RGV-MCS-2217

Owner: ROMAN CATHOLIC DIOCESE OF BROWNSVILLE, TEXAS, ACTING BY AND THROUGH ITS BISHOP, THE MOST REVEREND DANIEL E. FLORES, AS BISHOP OF THE ROMAN CATHOLIC DIOCESE OF BROWNSVILLE, AND FOR HIS SUCESSORS IN OFFICE, et al.

Acreage: 4.781 (RGV-MCS-2212) and 61.01 (RGV-MCS-2217) for a total of 65.791

The estate taken is a temporary, assignable easement beginning on the date that possession is granted to the United States and ending 12 months later, consisting of the right of the United States, its agents, contractors, and assigns to enter in, on, over and across the land described in Schedule C to survey, make borings, and conduct other investigatory work for the purposes described in Schedule B and to access adjacent lands; including the right to trim or remove any vegetative or structural obstacles that interfere with said work; reserving to the landowners, their successors and assigns all rights, title, and privileges as may be used and enjoyed without interfering with or abridging the rights hereby acquired; subject to minerals and rights appurtenant thereto, and to existing easements for public roads and highways, public utilities, railroads and pipelines.

# **SCHEDULE F**

**SCHEDULE F**

**ESTIMATE OF JUST COMPENSATION**

The sum estimated as just compensation for the land being taken is ONE HUNDRED DOLLARS AND NO/100 (\$100.00), to be deposited herewith in the Registry of the Court for the use and benefit of the persons entitled thereto; and, an additional sum determined at the conclusion of the temporary estate described in Schedule E to constitute actual damages, if any.

# **SCHEDULE G**

**SCHEDULE G****INTERESTED PARTIES**

The following table identifies all persons who have or claim an interest in the property condemned and whose names are now known, indicating the nature of each person's property interest(s) as indicated by references in the public records and any other information available to the United States. *See* Fed. R. Civ. P. 71.1(c).

Interested Party	Reference
<b>ROMAN CATHOLIC DIOCESE OF BROWNSVILLE, TEXAS, ACTING BY AND THROUGH ITS BISHOP, THE MOST REVEREND DANIEL E. FLORES, AS BISHOP OF THE ROMAN CATHOLIC DIOCESE OF BROWNSVILLE, AND FOR HIS SUCESSORS IN OFFICE</b> P.O. Box 2279 Brownsville, Texas 78522	RGV-MCS-2212 October 12, 1999 - Special Warranty Deed-Document # 1999-814019; Deed Records of Hidalgo County
<b>City of Mission, Texas, a Texas Municipal Corporation</b> 1201 E 8 <sup>th</sup> Street Mission, Texas 7857	RGV-MCS-2212 March 12, 2007 – Lease Agreement
<b>ROMAN CATHOLIC DIOCESE OF BROWNSVILLE, TEXAS, ACTING BY AND THROUGH ITS BISHOP, THE MOST REVEREND DANIEL E. FLORES, AS BISHOP OF THE ROMAN CATHOLIC DIOCESE OF BROWNSVILLE, AND FOR HIS SUCESSORS IN OFFICE</b> P.O. Box 2279 Brownsville, Texas 78522	RGV-MCS-2217 October 12, 1999 - Special Warranty Deed-Document # 1999-814019; Deed Records of Hidalgo County and July 1, 2011 - Warranty Deed-Document # 2011-2219429, Deed Records of Hidalgo County

JS 44 (Rev. 06/17)

**CIVIL COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

United States of America

(b) County of Residence of First Listed Plaintiff \_\_\_\_\_  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)  
John A. Smith, III, United States Attorney's Office, SDTX, 1701 West  
Bus. Hwy. 83, Ste. 600, McAllen, TX 78501

**DEFENDANTS**

65.791 Acres of Land, More or Less, Situate in Hidalgo County, State of Texas; and The Roman Catholic Diocese of Brownsville, Texas, Acting by and through its Bishop, the Most Reverend Daniel E. Flores,  
County of Residence of First Listed Defendant Hidalgo

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)  
David C. Garza, Garza & Garza, L.L.P., 680 E. Saint Charles, Suite 300, Brownsville, TX 78520, Telephone (956) 541-4914

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☒ 1 U.S. Government Plaintiff  
☐ 2 U.S. Government Defendant  
☐ 3 Federal Question (U.S. Government Not a Party)  
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                        | DEF                        |   | PTF                        | DEF                        |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input checked="" type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

**V. ORIGIN** (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding  
☐ 2 Removed from State Court  
☐ 3 Remanded from Appellate Court  
☐ 4 Reinstated or Reopened  
☐ 5 Transferred from Another District (specify)  
☐ 6 Multidistrict Litigation - Transfer  
☐ 8 Multidistrict Litigation - Direct File

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 U.S.C. 1358

Brief description of cause:

Land Condemnation proceeding for Right of Entry (ROE) to Survey and Conduct Testing

**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE  
10/25/2018SIGNATURE OF ATTORNEY OF RECORD  
s/ John A. Smith, III

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_

**INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44****Authority For Civil Cover Sheet**

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
- United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
- Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
- Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
- Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
- Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
- PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.
- Date and Attorney Signature.** Date and sign the civil cover sheet.